## LA11 Department of Agriculture – Capital

## Capital Budget Summary

# State-owned Capital Improvement Program (\$ in Millions)

	Prior	2020	2021	2022	2023	2024	Beyond
Projects	Auth.	Request	Est.	Est.	Est.	Est.	CIP
Salisbury Animal							
Health Laboratory							
Replacement	\$6.355	\$12.417	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
Total	\$6.355	\$12.417	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
	Prior	2020	2021	2022	2023	2024	Beyond
Fund Source	Auth.	Request	Est.	Est.	Est.	Est.	CIP
GO Bonds	\$6.355	\$12.417	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
Total	\$6.355	\$12.417	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000

CIP: Capital Improvement Program

GO: general obligation

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# Grant and Loan Capital Improvement Program (\$ in Millions)

Program	2018	2019	2020 Request	2021 Est.	2022 Est.	2023 Est.	2024 Est.
Trogram	Approp.	Approp.	Request	Est.	Lst.	Est.	Est.
Maryland Agricultural Land Preservation							
Program <sup>1</sup>	\$32.924	\$48.976	\$51.471	\$51.542	\$49.791	\$47.848	\$48.119
Tobacco Transition							
Program	1.000	0.999	0.000	0.000	0.000	0.000	0.000
Maryland Agricultural							
Cost-Share Program	8.000	8.500	9.000	8.000	8.000	8.000	9.000
Total	\$41.924	\$58.475	\$60.471	\$59.542	\$57.791	\$55.848	\$57.119
	2018	2019	2020	2021	2022	2023	2024
Fund Source	Approp.	Approp.	Request.	Est.	Est.	Est.	Est.
			_				
PAYGO SF	\$33.924	\$49.975	\$51.471	\$51.542	\$49.791	\$47.848	\$48.119
GO Bonds	8.000	8.500	9.000	8.000	8.000	8.000	9.000
Total	\$41.924	\$58.475	\$60.471	\$59.542	\$57.791	\$55.848	\$57.119

GO: general obligation PAYGO: pay-as-you-go SF: special funds

## Key Observations

• Fiscal 2020 Transfer Tax Repayment Remains the Same: The fiscal 2020 budget plan for the transfer tax repayment remains unchanged from what is required, following changes to the plan as introduced by the Governor in the 2018 session and subsequent legislative changes made in the Budget Reconciliation and Financing Act (BRFA). In accordance with Chapter 10 of 2016, as amended by the BRFA of 2018, the fiscal 2020 budget provides \$46.4 million in general funds for fiscal 2020 Program Open Space repayments. Of this amount, \$38.2 million supports capital programs supported with the transfer tax in the Department of Natural Resources and the Maryland Department of Agriculture (MDA), compared to just \$6.0 million in fiscal 2019.

<sup>&</sup>lt;sup>1</sup> The fiscal 2020 to 2024 Maryland Agricultural Land Preservation Program funding includes special funds that reflect the repayment of transfer tax revenues diverted to the General Fund in prior years as required by Chapter 10 of 2016 and reflect a revised repayment plan as set forth in the 2019 *Capital Improvement Program*. The appropriation will be made as general funds in the Dedicated Purpose Account; the general fund amount for fiscal 2020 is \$6,455,292.

• Salisbury Animal Health Laboratory Replacement Project Cost Increases: The overall cost for the Salisbury Animal Health Laboratory Replacement project has increased by \$586,689 between the 2018 Capital Improvement Program (CIP) and the 2019 CIP. This reflects an increase of approximately \$292,000 for construction and \$295,000 for equipment based on the final architect/engineer service cost estimate and approved capital equipment list.

## Summary of Recommended PAYGO Actions

1. Concur with Governor's allowance of \$45,015,994 in special funds for the Maryland Agricultural Land Preservation Program.

## Summary of Recommended Bond Actions

**Funds** 

1. Maryland Agricultural Land Preservation Program

\$6,455,292 GO

Add \$6,455,292 in general obligation bond authorization for the Maryland Agricultural Land Preservation Program.

2. Salisbury Animal Health Laboratory Replacement

Approve the \$12,417,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement project.

3. Maryland Agricultural Cost Share Program

-\$500,000 GO

Reduce the authorization for the Maryland Agricultural Cost-Share Program by \$500,000 in general obligation bonds.

**Total General Obligation Reductions/Additions** 

\$5,955,292

## Summary of Updates

- Readiness and Environmental Protection Integration Program to Be Ready Soon: Chapter 622 of 2018 (Maryland Agricultural Land Preservation Foundation Condemnation of Land Under Easement) resolved a statutory incompatibility between the Maryland Agricultural Land Preservation Program (MALPP) and the federal Readiness and Environmental Protection Integration Program (REPI). MALPP and the Department of the Navy are working on the terms of the deed of easement and Memorandum of Understanding (MOU) to be used for the REPI easement projects. The expectation is that the first potential project would be part of the fiscal 2020 easement application cycle.
- Renewable Energy Generation Report Submitted: Chapter 287 of 2014 (Agriculture Easements Renewable Energy Generation Facilities) authorized MALPP to approve the use of land subject to an agricultural easement for the generation of electricity by a facility using an authorized renewable energy source under specified conditions and subject to specified requirements. The bill prohibited such approval after June 30, 2019, and requires MALPP to adopt implementing regulations and to report on the implementation of the bill by December 1, 2018. MDA submitted the report on November 19, 2018. The report notes that MALPP promulgated the regulations and that while verbal inquiries have been received from renewable energy generation companies, no landowners have submitted a request.

## **Program Description**

The MDA capital program is comprised of MALPP and the Maryland Agricultural Cost-Share Program (MACS). The Tobacco Transition Program no longer receives funding. The programs fit under MDA's goals to preserve adequate amounts of productive agricultural land and woodland in Maryland and provide and promote land stewardship. Descriptions of the three programs follow. The fiscal 2020 budget also includes construction funds for the Salisbury Animal Health Laboratory Replacement project, which is a State-owned facility.

• MALPP: The General Assembly created MALPP to preserve productive agricultural land and woodland, limit the extent of urban development, and protect agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. The easement value is determined by subtracting the agricultural value from the appraised fair market value of the property. Once the development rights have been sold, the property is perpetually protected from further development, with certain rights available only to the owners who originally sold the easement.

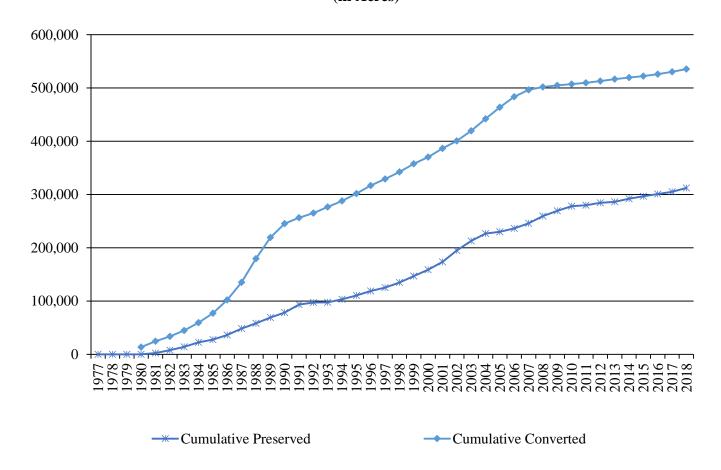
• MACS: MACS provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. The program requires a minimum 12.5% cost-share match from grantees. Animal waste treatment and containment projects are funded up to \$200,000 per project with a maximum of \$300,000 per farm for all animal waste management practices and up to \$450,000 per farm when combined with other BMPs and up to \$200,000 per project under a pooling agreement to solve a pollution problem on two or more farms. All other BMPs are funded up to \$50,000 per project, with a maximum of \$150,000 per farm per person and up to \$100,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

## Performance Measures and Outputs

#### **MALPP**

Agricultural land is desirable for conversion to other uses such as residential development. MALPP is one tool for keeping farmland in agricultural production as is the agricultural use assessment for taxation purposes. **Exhibit 1** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted to development purposes from fiscal 1977 to 2018. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. As shown in **Exhibit 2**, more recently during the peak Great Recession years, significantly more farmland was preserved than converted to nonagricultural use, which correlates with less development pressures occurring during an economic recession. Since that time, as the State has slowly come out of the Great Recession, overall, more land has been preserved than developed. In fiscal 2018, for instance, there was a moderate net increase in the annual acres preserved: 7,284 acres were preserved; and 5,103 acres were converted.

#### Exhibit 1 Cumulative Agricultural Land Preserved by MALPP vs. Cumulative Agricultural Land Converted Fiscal 1977-2018 (in Acres)

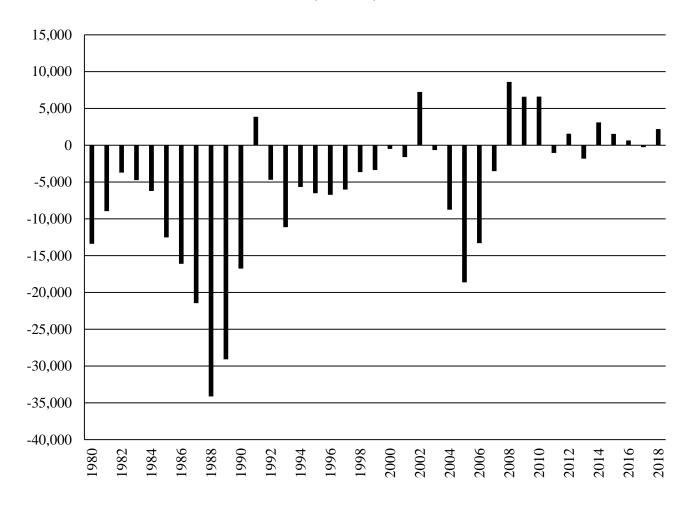


MALPP: Maryland Agricultural Land Preservation Program

Note: Includes easements under the Maryland Agricultural Land Preservation Foundation and the now defunct GreenPrint Program. State records do not exist for agricultural land converted before fiscal 1980.

Source: Maryland Department of Agriculture; State Department of Assessments and Taxation; Department of Legislative Services

Exhibit 2
Net Difference in Annual Farmland Preserved and Converted
Fiscal 1980-2018
(in Acres)



Source: Maryland Department of Agriculture; State Department of Assessments and Taxation; Department of Legislative Services

Senate Joint Resolution 10 of 2002 established a statewide land preservation goal to triple (1,030,000 acres) the number of acres of productive agricultural land preserved by MALPP, GreenPrint, the Rural Legacy Program, and local preservation programs by the year 2022. As of November 26, 2018, a total of 654,490 acres have been preserved; thus, an additional 375,510 acres would need to be preserved by 2022 to meet the original preservation goal. Through fiscal 2018, MALPP has conserved approximately 312,000 acres as its contribution to the statewide goal.

#### **MACS**

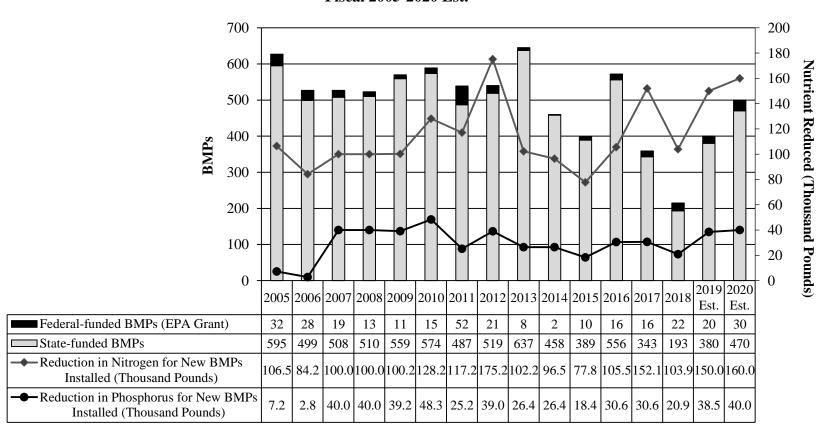
MDA's Resource Conservation Grants program has the goal of controlling and reducing agriculture-related water pollution through the implementation of BMPs. MDA has implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency's (EPA) Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by the U.S. Department of Agriculture (USDA) are not tracked as part of the budget process; however, BMPs and nutrient reductions are reported to EPA as part of Watershed Implementation Plan documentation. MDA has noted that it backfills funding with federal cost-share dollars when federal funding is available.

Outside of the State budgeting process, the 2018 Farm Bill reauthorized the Regional Conservation Partnership Program through USDA's Natural Resources Conservation Service. The Chesapeake Bay watershed is one of eight geographic areas eligible for a share of \$300.0 million per year (up from \$100.0 million per year). The Natural Resources Conservation Service works collaboratively with conservation partners and agricultural producers to promote voluntary private lands conservation.

**Exhibit 3** reflects the new BMPs installed by MACS between fiscal 2005 and the 2020 estimate. As illustrated, the majority of BMPs are installed with State funds, and the combined State and federal projects have reduced, on average, around 110,000 pounds of nitrogen pollution per year between fiscal 2005 and 2018. Noteworthy is a decrease from 359 to 215 combined State and federal BMPs funded between fiscal 2017 and 2018, which corresponds with a decrease from 152,100 pounds to 103,900 pounds of nitrogen reduced. MDA notes that the number of State and EPA-funded projects is down due to the weather, the record amount of precipitation, and the consequent impacts on BMP construction.

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Exhibit 3
Maryland Agricultural Cost-Share Program
New BMPs Installed
Fiscal 2005-2020 Est.



BMP: best management practice EPA: Environmental Protection Agency

Source: Maryland Department of Agriculture

The Chesapeake Bay Program required enhanced verification of historical BMPs as part of the 2017 midpoint assessment and the recalibration of the Chesapeake Bay model. This requires that 100% of BMPs be verified to receive credit and that approximately 10% be reverified annually to continue receiving credit. For Maryland, this meant the temporary loss of approximately 30,000 agricultural-sector BMPs and the consequent increase in nutrient and sediment loading as reported by the Chesapeake Bay model. Since October 2016, MDA has reviewed more than 10,000 BMPs and found that 73% meet standards, 23% no longer exist or are superseded, and 4% do not meet standards. Common reasons for unsatisfactory reviews include the lack of maintenance of BMPs or the lack of transfer of responsibility when ownership changes. Since property transfers make up 50% of the unsatisfactory reviews, MDA has instituted a policy whereby BMPs for which the State cost share is \$5,000 or greater are recorded as a lien on the property. If maintenance issues are not resolved within a certain period of time, then MDA may require payback of the State share.

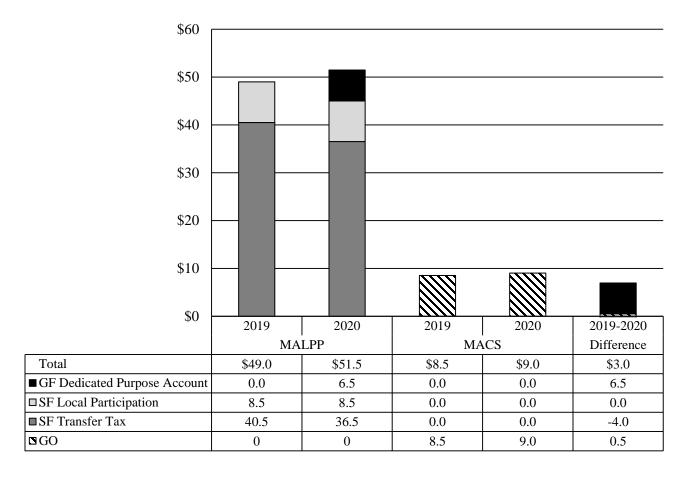
### **Budget Overview**

#### Fiscal 2020 Budget

The fiscal 2020 allowance includes \$51.5 million in special funds and \$21.4 million in general obligation (GO) bonds for a total of \$72.9 million.

**Exhibit 4** shows the fiscal 2020 funding for the two programs in the allowance. The proposed fiscal 2020 funding level is \$3.0 million higher than what was provided in fiscal 2019. This reflects an increase of \$2.5 million in special funds for MALPP and \$0.5 million in the GO bond authorization for MACS.

Exhibit 4
Maryland Department of Agriculture
Capital Budget Changes by Fund
Fiscal 2019-2020
(\$ in Millions)



GF: general fund GO: general obligation

MACS: Maryland Agricultural Cost-Share Program
MALPP: Maryland Agricultural Land Preservation Program

SF: special fund

Source: Department of Legislative Services

#### **MALPP**

MALPP's fiscal 2020 allowance provides \$51.5 million comprised of \$36.5 million in transfer tax special funds, \$8.5 million of local participation special funds, and \$6.5 million of general funds

budgeted in the Dedicated Purpose Account for the program's share of transfer tax diversion repayments as set forth in Chapter 10, as amended by the BRFA of 2018. The estimated cost per acre for MALPP easements is projected to be approximately \$4,060 in fiscal 2020, which will allow for the preservation of 12,675 acres. No federal funding is reflected, which means that there has been no change in the restrictive requirements on the federal Farm and Ranch Lands Protection Program funding. In last year's analysis, MDA noted that there was an insufficient number of assistant Attorneys General (AAG) legal staff within the Department of General Services (DGS) to handle the increased workload of a one-year easement cycle. MDA now notes that it has increased the number of AAGs that it funds within DGS. As a result, the number of easement acres purchased has increased.

MALPP is eligible to receive both pay-as-you-go funds as well as GO bonds. In fiscal 2020, MALPP is programmed to receive \$6,455,292 in transfer tax repayment money currently budgeted as general funds in the Dedicated Purpose Account. This funding could be used to defray the need for a portion of the \$62.9 million in GO bond funding in fiscal 2020 in the Department of Housing and Community Development that is possibly subject to federal restrictions on the use of tax-exempt financing. In exchange, MALPP could use an equivalent amount of GO bond funding. The Department of Legislative Services (DLS) recommends that \$6,455,292 in general funds in the Dedicated Purpose Account for repayment of transfer tax funding be repurposed for capital projects that are restricted from using tax-exempt GO bond funding. In addition, DLS recommends that \$6,455,292 in GO bonds be authorized for MALPP to replace the general funds in the Dedicated Purpose Account.

#### MACS

The fiscal 2020 allowance for MACS is \$9.0 million, which is \$0.5 million greater than the fiscal 2019 working appropriation of \$8.5 million and \$1.0 million more than the funding level programmed for fiscal 2020 in the 2018 CIP. The 2019 CIP reflects an \$8.0 million funding level for all but the fiscal 2024 authorization in the five-year planning period after the fiscal 2020 authorization. MDA notes that during the last five years, 7 of the 10 highest used BMPs funded by MACS have been poultry and livestock related. In terms of federal funding, MDA notes that the Regional Conservation Partnership Program through USDA's Natural Resources Conservation Service will supplement and not supplant the State GO bond funding for agricultural BMPs. **DLS recommends that the MACS authorization be reduced by \$0.5 million to level fund it with the fiscal 2019 authorization.** 

#### Salisbury Animal Health Laboratory Replacement

The fiscal 2020 allowance includes a total of \$12,417,000 in GO bonds to complete the construction and equipping of the Salisbury Animal Health Laboratory Replacement project. The Salisbury Animal Health Laboratory conducts tests that ensure the safety of the food supply and the economic viability of animal industries throughout the Delmarva Peninsula by, among other activities, providing diagnostic and investigatory services that identify and contain animal health emergencies. The primary justifications for the project include the deterioration of the existing infrastructure and the inability to meet current laboratory standards. The existing building has roof, ceiling, wall, and floor failures; mechanical, electrical, and plumbing systems that do not meet current requirements; and inadequate space for many laboratory functions. In terms of laboratory standards, the laboratory lacks

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negative air pressure, and in fact has positive pressure, which means that the existing air system does not minimize the escape of contaminants; and the laboratory lacks biosecurity and safety features to isolate nonpublic areas.

The overall cost for the Salisbury Animal Health Laboratory Replacement project has increased by \$586,689 between the 2018 and 2019 session estimates. In the aggregate, this reflects an increase of approximately \$292,000 for construction and \$295,000 for equipment. The various adjustments to the revised cost estimate are illustrated in **Exhibit 5**. The biggest factor impacting the construction cost estimate is a revised square foot cost for the new public entry and administration component of the project, which increased from \$252 to \$435 per square foot, resulting in an increase of \$1,250,622.

Exhibit 5
Salisbury Animal Health Laboratory Replacement Cost Changes
2018 and 2019 Sessions

	2018 Session	2019 Session	<b>Difference</b>	<b>Explanation</b>
<b>Direct Costs</b>				
New Construction: New Public Entry and Administration	\$1,722,168	\$2,972,790	\$1,250,622	The new public entry/administration cost increased from \$252 to \$435 per square foot.
Movable Equipment	300,000	595,000	295,000	The original capital funding for equipment was minimal and did not include high cost items that are necessary to the functioning of the new laboratory, such as biosafety cabinets, water distillation units, incubators, and refrigerators.
Site: General Site Work	1,050,535	1,345,000	294,465	Asbestos and hazmat removal and the sprinkler water storage tank, fire pump, and distribution on the site were not included in the original design costs.
New Construction: New Shared Storage	741,750	948,750	207,000	The cost increased from \$129 to \$165 per square foot to fund utilities sprinkler connections that were not fully scoped in the original Department of General Services estimate.

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	2018 Session	2019 Session	<b>Difference</b>	<b>Explanation</b>
New Construction: New Secure Laboratory	6,851,424	6,963,480	112,056	The cost of the new secure laboratory increased from \$428 to \$435 per square foot because of the cost for the mechanical and electrical equipment as well as the requirements for the biosafety level three laboratory areas.
Information Technology	260,000	50,000	-210,000	The costs are incorporated into the base square foot cost.
Total Construction Contingency	1,376,716	727,126	-649,590	Reflects standard practice to reduce the allocation for a standard project contingency from 10% to 5% in the year that the project is funded for construction.
Utilities: General Utility Work	1,302,901	430,000	-872,901	The utility work costs decrease because they are incorporated in the site and building costs.
Other	4,031,401	4,047,318	15,917	
Subtotal	\$13,605,494	\$14,032,146	\$442,569	
Adjustments				
Regional	-\$660,939	\$0	\$660,939	Increased from 95% to 100% as a general policy for all projects.
Escalation	1,209,320	692,501	-516,819	Decreased from 9.63% to 5.0% to reflect a project cost estimate reference point adjustment.
Subtotal			\$144,120	
Total			\$586,689	

Source: Maryland Department of Agriculture; Department of General Services; Department of Legislative Services

DGS has received 100% of the construction documents for the project, and the cost estimate was received January 14, 2019. The construction package is being readied for bidding in March 2019.

In terms of accreditation and the building lifespan, the accreditation cycle is two years, and the current accreditation is valid through September 2020. The laboratory is expected to last at least 30 years. The \$241,000 in replacement equipment reflected as an operating budget impact in fiscal 2020 reflects the purchase of laboratory testing equipment, refrigerators, freezers, biosafety cabinets, and other related equipment that is intended to last through the first 15 years or possibly the 30-year lifespan of the new laboratory.

### **Updates**

#### 1. Readiness and Environmental Protection Integration Program to Be Ready Soon

Chapter 622 (Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement) resolved a statutory incompatibility between MALPP and REPI that will allow MALPP to enter into a multi-year agreement with the Department of the Navy and a number of other partners to allow for federal funding under REPI to contribute to purchases of MALPP easements that are eligible under REPI. REPI funds cost-sharing agreements with state and local governments and conservation organizations to promote compatible land uses and preserve habitats near military installations.

MDA notes that on July 11, 2018, MALPP submitted a request to the Navy to ask to rejoin the partnership agreement under REPI, and the Navy provided the amended agreement to all of the partners to sign on November 15, 2018. The majority of the partners, including MALPP, signed the agreement by early December 2018. The Navy was the final signatory to the agreement, which was fully executed on February 6, 2019. MALPP and the Navy are working on the terms of the deed of easement and MOU to be used for REPI easement projects. The expectation is that the first potential project would be part of the fiscal 2020 easement application cycle.

#### 2. Renewable Energy Generation Report Submitted

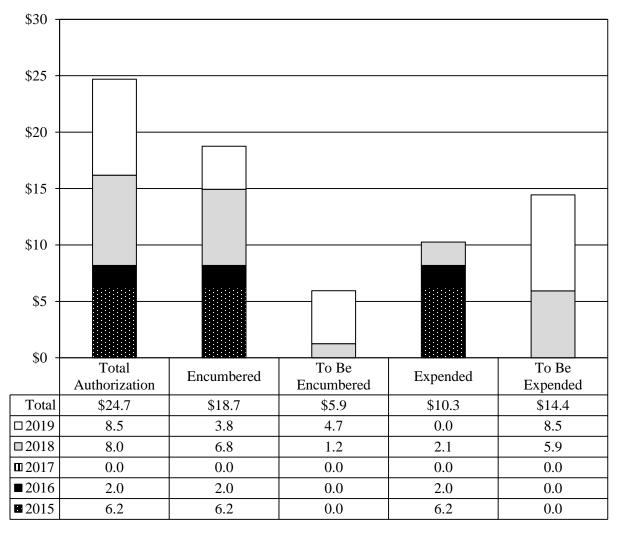
Chapter 287 (Agriculture – Easements – Renewable Energy Generation Facilities) authorized MALPP to approve the use of land subject to an agricultural easement for the generation of electricity by a facility using an authorized renewable energy source under specified conditions and subject to specified requirements. The bill prohibited such approval after June 30, 2019, and requires MALPP to adopt implementing regulations and to report on the implementation of the bill by December 1, 2018.

MDA submitted the report on November 19, 2018. The report notes that MALPP promulgated the regulations and that while verbal inquiries have been received from renewable energy generation companies, no landowners have submitted a request.

## Authorization Encumbrance and Expenditure Data

**Exhibit 6** reflects the encumbrance and expenditure history for MACS between fiscal 2014 and January 2019. The total authorization for the time period shown is \$24.7 million of which \$5.9 million remains to be encumbered.

Exhibit 6
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Fiscal 2014 through January 2019
(\$ in Millions)



Note: Format rounds data, so numbers do not balance.

Source: Maryland Department of Agriculture; Department of Budget and Management

## PAYGO Recommended Actions

1.	oncur with Governor's allowance of \$45,015,994 in special funds for the Maryland
	gricultural Land Preservation Program.

#### GO Bond Recommended Actions

1. Add \$6,455,292 in general obligation bond authorization for the Maryland Agricultural Land Preservation Program.

LA1111A Maryland Agricultural Land Preservation Program ..... \$ 6,455,292

Add the following language:

<u>LA11</u> <u>OFFICE OF THE SECRETARY</u>

(Statewide)

(A) Maryland Agricultural Land Preservation Program. Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2-501 through 2-519 of the Agriculture Article......

6,455,292

 Allowance
 Change
 Authorization

 0
 6,455,292
 6,455,292

**Explanation:** This action adds \$6,455,292 in general obligation (GO) bond authorization for the Maryland Agricultural Land Preservation Program. This allows an equivalent amount of general funds budgeted in the Dedicated Purpose Account for the program to instead be used to fund programs in the Department of Housing and Community Development that require the issuance of more expensive taxable GO bonds.

- 2. Approve the \$12,417,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement project to complete construction of a replacement animal health laboratory in Salisbury.
- 3. Reduce the authorization for the Maryland Agricultural Cost-Share Program by \$500,000 in general obligation bonds.

 Allowance
 Change
 Authorization

 9,000,000
 -500,000
 8,500,000

**Explanation:** This action reduces the authorization for the Maryland Agricultural Cost-Share Program by \$500,000 in general obligation bonds in order to level fund it with the fiscal 2019 authorization. The department should still be able to reach a \$9.0 million encumbrance level in fiscal 2020 using available recycled grant funds, which exceed \$1.0 million annually.

Total General Obligation Bonds Reductions/Additions

\$5,955,292